

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

ALEX DEAN HAMILTON,

Plaintiff,

vs.

DETECTIVE JESSE SLAUGHTER, CITY
OF GREAT FALLS, PLANNED
PARENTHOOD, CASCADE COUNTY
OF MONTANA, GREAT FALLS
TRIBUNE and CCDC OFFICIAL(s)
COMMANDER DAN O’FALLON and
SHERIFF BOB EDWARDS,

Defendants.

CV 18-00104-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

On April 1, 2019, this Court issued an Order finding that Plaintiff Alex Hamilton’s Complaint failed to state a claim upon which relief could be granted and was subject to dismissal. (Doc. 7.) Mr. Hamilton was given an opportunity to file an amended complaint but failed to do so.

Accordingly, for the reasons set forth in the Court’s April 1, 2019 Order (Doc. 7), the Court finds that Mr. Hamilton has failed to state a federal claim upon which relief may be granted, and therefore issues the following:

RECOMMENDATIONS

1. This matter should be DISMISSED for failure to state a federal claim.

2. The Clerk of Court should be directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

3. The Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

4. The Clerk of Court should be directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Mr. Hamilton failed to state a claim upon which relief may be granted.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Mr. Hamilton may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.¹ 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district

¹Rule 6(d) of the Federal Rules of Civil Procedure provides that “[w]hen a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail) . . . 3 days are added after the period would otherwise expire under Rule 6(a).” Therefore, since Mr. Hamilton is being served by mail, he is entitled an additional three (3) days after the period would otherwise expire.

judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 16th day of May, 2019.

/s/ John Johnston

John Johnston
United States Magistrate Judge